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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,736	09/15/2003	Alan Kyle Bozeman	20339.17	1922

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EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,736

Applicant(s)

BOZEMAN, ALAN KYLE

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004 and 04 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-41 is/are allowed.
- 6) ☒ Claim(s) 42-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The amendment filed 5/3/04 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: a pre-printed section listing a pre-printed play phrase, the pre-printed play phrase having a plurality of words (clm 46) appears to be new matter when taken in conjunction with receiving an alphabetical play phrase from a user (clm 42) at least since if the phrase is received from user it cannot be pre-printed (temporal disparity).

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 46-49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Essentially, as best understood, the pre-printed section listing a pre-printed play phrase having a plurality of words (clm 46) appears to be new matter when taken in conjunction with receiving an alphabetical play phrase from a user (clm 42) at least since if the phrase is received from user it does not appear to be pre-printed.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 46-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to how the pre-printed section listing a pre-printed play phrase having a plurality of words (clm 46) is pre-printed when an alphabetical play phrase is received from a user (clm 42) at least since if the phrase is received phrase from user it is unclear as to how it is pre-printed.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 42-45 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Koza (5112050). Where phrase in broadest interpretation thereto is a string of [alphabet, alphanumeric, etc] characters, Koza discloses a word (or letters) based lottery game (2:51-3:20, 3:64-4:4, 4:13-5:28, 6:21-39, 11:28-68, 12:36-13:35) including receiving an alphabetical play phrase from a user (12:36-63), receiving a wager such as acquiring the ticket (4:4, 5:10-12), generating a random character string (12:55-63), determining a correlation among the alphabetical play phrase, the random character string and the wager (4:51-54, 5:24-28, 6:32-39, 12:36-13:35), determining a payout value based upon, at least, the correlation (sic) where receiving an alphabetical play phrase is a long series of characters such as a long number, letter or word or character string which alters probability by reducing chance of winning and increasing jackpot amount which increases player interest due to the larger prize/jackpot and thereby increases revenue and Koza's lottery includes lotto or lottery games such as pick a 20 letter character string (word/letter form of keno) from list in that there is no required limitation for character/word length. Alternatively, Koza lottery scheme for pick 6 (or 7) includes pick 6 characters (alphanumeric, out of 36 rather than 49) for letters or words which includes a phrase since a character string such as 'Cloud 9' or 'Lucky 7' is a phrase encompassed by Koza. Further, alternatively, Koza's lottery lacks phrase (where phrase is deemed either a long series of letter characters or a plurality of words where each word contains a plurality of letters). Although Koza discusses a lottery scheme such as 6/49 (pick 6 characters out of 49, also mentions bonus 7th pick), BY OFFICIAL NOTICE, it was notoriously well known that conventional keno is an example of a lottery game that adjusts percentage to win

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over lottery game such as 6/49 by requiring a longer string of character selections such as pick 20/80 which decreases probability of winning, increases prize/award thereby and increases player interest to play and thereby increasing revenues from the increased participation/interest. Therefore, it would have been obvious to an artisan at a time prior to the invention to add phrase as a longer character string as exemplified by at least conventional kenō to Koza's letter or word lottery so as to decrease probability of winning, increase prize/award value thereby which increases player interest to play and thereby increasing revenues from the increased participation/interest. Koza further includes supplying game values via paper ticket (11:60-68) or via a keyboard for player to manually enter selections (ref 72) or a word list as a menu (12:55-63). Essentially, breadth of claimed invention fails to preclude Koza's teachings or fails to overcome equivalence of Koza's lottery in so far as the claimed invention including 'phrase' fails to distinguish from a character string. Character order specificity fails to distinguish.

10. Claims 46 and 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koza (5112050) in view of either Gumina (5118109) or Kamille (5855514). Koza discloses a word based lottery game comprising claimed steps/features (supra) including a pre-printed section listing a pre-printed phrase (11:60-68, 12:55-63) except a covered section including the random character string. Gumina (abstract, 1:55-2:34, 3:25-40, 5:28-6:22fig. 4-8) also for simulating a card game of draw where the characters are cards of a card game or Kamille (5:21-49, 9A-9B, 13, 15) for lottery game piece being physical or virtual each disclose lottery game teaching a covered section including the random character string for instant ticket/scratcher form of play. Therefore, it would have been obvious to an artisan at a time prior to the invention to add a covered section including the random character string as taught by Gumina or Kamille to

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Koza's lottery so as to permit instant scratcher like game play. Alternatively, Koza lacks a pre-printed section listing a pre-printed phrase, the pre-printed phrase having a plurality of words. Discussion above regarding scope/breadth of phrase is incorporated herein. Gumina (sic) or Kamille (sic) each also disclose instant lottery ticket game teaching pre-printed section listing a pre-printed phrase, the pre-printed phrase having locations revealing a win combination. Thus, further, it would have been obvious to an artisan at a time prior to the invention to add a pre-printed section listing a pre-printed phrase, the pre-printed phrase having a plurality of words as further taught by either Gumina or Kamille to Koza's ticket so as to notify player regarding a win combination.

Allowable Subject Matter

11. Claims 29-41 are allowed.
12. Claims 47-48, 51-53 appear to contain patentable subject matter; however, issues above for cited claims herein need clarification.

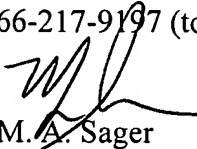
Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



M. A. Sager
Primary Examiner
Art Unit 3713

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